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OFFICE OF PETITIONS

In re Patent No. 6,954,498	:	DECISION ON REQUEST
Alan J. Lipton	:	FOR RECONSIDERATION OF
Issue Date: October 11, 2005	:	PATENT TERM ADJUSTMENT
Application No. 09/694,712	:	and
Filed: October 24, 2000	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 37112-164994	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 1.705(d)," filed October 26, 2005. Patentees request that the patent term adjustment indicated on the patent be corrected from nine hundred thirty (930) days to one thousand twenty-two (1022) days.

The request for reconsideration of the patent term adjustment is GRANTED.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of one thousand twenty-two (**1022**) days.

On October 11, 2005, the application matured into U.S. Patent No. 6,954,498, with a revised patent term adjustment of 930 days. On October 26, 2005, in response to the PTA indicated on the patent, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of PTA is 1022 days. Patentees dispute the reduction of 92 days associated with the filing of the Applicant's Statement of the Substance of the Interview on July 12, 2005. Patentees argue that this filing does not constitute a failure to engage in reasonable efforts to conclude prosecution and therefore should not result in any applicant delay.

Petitioner's argument is well-taken. The Clarification of 37 CFR § 1.704(c)(10) provides that only certain papers filed after a notice of allowance has been given or mailed will reduce the period of adjustment by the number of days beginning on the date

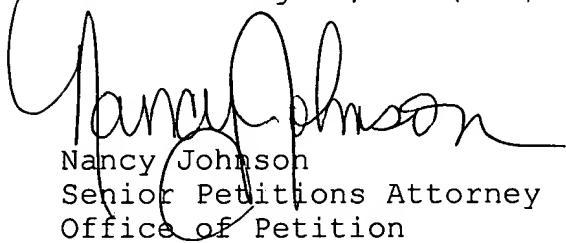
the amendment or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment or such other paper. The circumstances of the filing of Applicant's Statement of the Substance of the Interview, filed on July 12, 2005, have been considered. It is concluded that under the circumstances, the filing does not constitute a failure of the applicant to engage in reasonable efforts to conclude prosecution as defined by § 1.704(c)(10). Thus, it is concluded that the reduction of 92 days is not warranted.

In view thereof, the patent term adjustment indicated in the patent should have been one thousand twenty-two (1022) days.

The Office will issue a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted to **ONE THOUSAND TWENTY-TWO (1022)** days.

The \$200.00 fee set forth in 37 CFR 1.18(e) has been paid. No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned, at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petition

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 6,954,498 B1
DATED : October 11, 2005
INVENTOR(S) : Alan J. Lipton

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (930) days

Delete the phrase "by 930" and insert – by 1022 days--